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Message Text

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TO AMEMBASSY ANKARA NIACT IMMEDIATE

UNCLAS STATE 219784

FOR ROBERT DALTON

E O. 11652: N/A

TAGS:

SUBJECT: UNITED STATES PAROLE COMMISSION

REF: ANKARA 6227 & ANKARA 6222.

1. THE COMMISSION CONSISTS OF NINE MEMBERS, APPOINTED BY THE PRESIDENT BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. IT HAS SOLE AUTHORITY TO GRANT, MODIFY, OR REVOKE PAROLES OF ELIGIBLE U.S. PRISONERS SERVING SENTENCES OF MORE THAN ONE YEAR. IT IS RESPONSIBLE FOR THE SUPERVISION OF PAROLEES AND PRISONERS RELEASED UPON THE EXPIRATION OF THEIR SENTENCES WITH ALLOWANCES FOR STATUTORY GOOD TIME, AND THE DETERMINATION OF SUPERVISION CONDITIONS AND TERMS. PROBATION OFFICERS SUPERVISE PAROLEES AND MANDATORY RELEASES UNDER THE DIRECTION OF THE COMMISSION.

THE COMMISSION HAS ADDITIONAL RESPONSIBILITY IN CASES
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IN WHICH THE COMMITTING COURT SPECIFIES THAT THE PAROLE COMMISSION SHALL DETERMINE THE DATE OF PAROLE ELIGIBILITY OF THE PRISONER. IT MAY, UNDER ITS RULES, DISCHARGE PAROLEES FROM SUPERVISION. (SOURCE USG MANUAL).

2. COMMISSION REGULATIONS ARE FOUND IN PART 2-PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS ... OF

TITLE 28, CODE OF FEDERAL REGULATIONS (AS OF JULY 1, 1977-1978 REVISION NOT PRESENTLY AVAILABLE). RELEVANT SECTIONS

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ARE AS FOLLOWS:

SECTION 2.1 DEFINITION: (F) "... ELIGIBLE PRISONER"...ANY FEDERAL PRISONER ELIGIBLE FOR PAROLE PURSUANT TO THIS PART AND INCLUDES ANY FEDERAL PRISONER WHOSE PAROLE HAS BEEN REVOKED AND...IS NOT OTHERWISE INELIGIBLE FOR PAROLE.

.12 HEARING PROCEDURE

(A) WHENEVER FEASIBLE, THE INITIAL PAROLE DETERMINATION HEARING FOR AN ELIGIBLE PRISONER SHALL BE HELD AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF HIS MINIMUM SENTENCE, OR IN THE CASE OF NO MINIMUM SENTENCE WITHIN ONE HUNDRED AND TWENTY DAYS AFTER RECEPTION AT A FEDERAL INSTITUTION.

.13 INITIAL HEARING

(A) AN INITIAL HEARING SHALL BE CONDUCTED BY A PANEL OF TWO HEARING EXAMINERS. THE EXAMINERS SHALL DISCUSS WITH THE PRISONER HIS OFFENSE SEVERITY RATING AND SALIENT FACTOR SCORE AS DESCRIBED IN SEC. 2.20, HIS INSTITUTIONAL CONDUCT AND ANY OTHER MATER PANEL MAY DEEM RELEVANT. AT THE CONCLUSION OF THE HEARING, THE PANEL SHALL ORALLY INFORM THE UNCLASSIFIED

PRISONER OF ITS RECOMMENDATION AND, IF SUCH RECOMMENDATION IS FOR DENIAL, OF THE REASONS THEREFOR.

(B) WRITTEN NOTICE OF THE OFFICIAL DECISION, INCLUDING THE DECISION TO REFER UNDER SEC. 2.17 OR 2.24, SHALL BE MAILED OR TRANSMITTED TO THE PRISONER WITHIN 21 DAYS OF THE DATE OF THE HEARING, EXCEPT IN EMERGENCIES.

(C) IF PAROLE IS DENIED, THE PRISONER SHALL ALSO RECEIVE IN WRITING THE REASONS THEREFOR. IN ACCORDANCE WITH 18 U.S.C. 4206, REASONS FOR PAROLE DENIAL MAY INCLUDE THE FOLLOWING, WITH FURTHER SPECIFICATION AS APPROPRIATE:
(1) THE PRISONER HAS NOT SUBSTANTIALLY OBSERVED THE RULES OF THE INSTITUTION OR INSTITUTIONS IN WHICH CONFINED;

(2) RELEASE, IN THE OPINION OF THE COMMISSION, WOULD DEPRECIATE THE SERIOUSNESS OF THE OFFENSE OR PROMOTE DISREPECT FOR THE LAW; OR

(3) RELEASE, IN THE OPINION OF THE COMMISSION, WOULD JEOPARDIZE THE PUBLIC WELFARE.

.14 SUBSEQUENT HEARINGS

(A) SUBSEQUENT HEARINGS SHALL BE CONDUCTED UNDER THE SAME PROCEDURE AS INITIAL HEARINGS, EXCEPT THE PRIMARY PURPOSE OF A SUBSEQUENT HEARING SHALL BE TO FOCUS ON ANY DEVELOP-

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MENTS OR CHANGES IN THE PRISONER'S STATUS THAT MAY HAVE OCCURRED SUBSEQUENT TO INITIAL HEARING.

(B) DURING MONTH PRECEDING A REGULARLY SCHEDULED INSTITUTIONAL REVIEW HEARING CASE MAY BE REVIEWED BY AN EXA;INER PANEL ON THE RECORD (INCLUDING A CURRENT INSTITUTIONAL PROGRESS REPORT). IF THE RECOMMENDATION IS TO GRANT PAROLE, AND THE REGIONAL COMMISSIONER CONCURS, NO HEARING SHALL BE CONDUCTED.
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(D) NO PRISONER SHALL BE CONTINUED WITHOUT FURTHER REVIEW FOR MORE THAN (1) 18 MONTHS IN THE CASE OF THE PRISONER WITH A TERM OR TERMS OF LESS THAN 7 YEARS, OR (2) 24 MONTHS IN THE CASE OF A PRISONER WITH A TERM OR TERMS OF 7 YEARS OR LONGER.

.15 PETITION FOR CONSIDERATION OF PAROLE PRIOR TO DATE SET AT HEARING.

WHEN A PRISONER HAS SERVED THE MINIMUM TERM OF IMPRISONMENT REQUIRED BY LAW, THE BUREAU OF PRISONS MAY PETITION THE RESPONSIBLE REGIONAL COMMISSIONER FOR REOPENING THE CASE UNDER SEC. 2.28 AND CONSIDERATION OF PAROLE PRIOR TO THE DATE SET BY THE COMMISSION AT THE INITIAL OR REVIEW HEARING. THE PETITION MUST SHOW CAUSE WHY IT SHOULD BE GRANTED, I.E., AN EMERGENCY, HARDSHIP, OR THE EXISTENCE OF OTHER EXTRAORDINARY CIRCUMSTANCES THAT WOULD WARRANT CONSIDERATION OF EARLY PAROLE.

.16 PAROLE OF PRISONER IN STATE, LOCAL OR TERRITORIAL INSTITUTION.

.17 ORIGINAL JURISDICTION CASES. (ESTABLISHES CRITERIA USED IN DESIGNATING AS ORIGINAL JURISDICTION CASES.)

.18 GRANTING OF PAROLE.

THE GRANTING OF PAROLE TO AN ELIGIBLE PRISONER RESTS IN THE DISCRETION OF THE U.S. PAROLE COMMISSION. AS PREREQUISITES TO A GRANT OF PAROLE, THE COMMISSION MUST DETERMINE THAT PRISONER HAS SUBSTANTIALLY OBSERVED THE RULES OF THE INSTITUTION OR INSTITUTIONS IN WHICH HE HAS
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BEEN CONFINED; AND UPON CONSIDERATION OF THE NATURE AND

CIRCUMSTANCES OF THE OFFENSE AND THE HISTORY AND CHARACTERISTICS OF THE PRISONER, MUST DETERMINE THAT RELEASE WOULD NOT DEPRECIATE THE SERIOUSNESS OF HIS OFFENSE OR PROMOTE

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DISRESPECT FOR THE LAW, AND THAT RELEASE WOULD NOT JEOPARDIZE THE PUBLIC WELFARE (I.E., THAT THERE IS A REASONABLE PROBABILITY THAT, IF RELEASED, THE PRISONER WOULD LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW OR THE CONDITIONS OF HIS PAROLE).

.19 INFORMATION CONSIDERED.

(A) IN MAKING A DETERMINATION UNDER THIS CHAPTER (RELATING TO RELEASE ON PAROLE) THE COMMISSION SHALL CONSIDER, IF AVAILABLE AND RELEVANT:

(1) REPORTS AND RECOMMENDATIONS WHICH THE STAFF OF THE FACILITY IN WHICH SUCH PRISONER IS CONFINED MAY MAKE;

(2) OFFICIAL REPORTS OF THE PRISONER'S PRIOR CRIMINAL RECORD, INCLUDING A REPORT OR RECORD OF EARLIER PROBATION AND PAROLE EXPERIENCES;

(3) PRESENTENCE INVESTIGATION REPORTS;

(4) RECOMMENDATIONS REGARDING THE PRISONER'S PAROLE MADE AT THE TIME OF SENTENCING BY THE SENTENCING JUDGE AND PROSECUTING ATTORNEY; AND

(5) REPORTS OF PHYSICAL, MENTAL, OR PSYCHIATRIC EXAMINATION OF THE OFFENDER.

(B) THERE SHALL ALSO BE TAKEN INTO CONSIDERATION SUCH ADDITIONAL RELEVANT INFORMATION CONCERNING THE PRISONER (INCLUDING INFORMATION SUBMITTED BY THE PRISONER) AS MAY

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BE REASONABLY AVAILABLE (18 U.S.C. 4207). THE COMMISSION ENCOURAGES THE SUBMISSION OF RELEVANT INFORMATION CONCERNING AN ELIGIBLE PRISONER BY INTERESTED PERSONS.

.20 PAROLING POLICY GUIDELINES; STATEMENT OF GENERALPOLICY

(A) TO ESTABLISH A NATIONAL PAROLING POLICY, PROMOTE A MORE CONSISTENT EXERCISE OF DISCRETION, AND ENABLE FAIRER AND MORE EQUITABLE DECISIONMAKING WITHOUT REMOVING INDIVIDUAL CASE CONSIDERATION, THE U.S. PAROLE COMMISSION HAS ADOPTED GUIDELINES FOR PAROLE RELEASE CONSIDERATION.

(B) THESE GUIDELINES INDICATE THE CUSTOMARY RANGE OF TIME TO BE SERVED BEFORE RELEASE FOR VARIOUS COMBINATIONS OF

OFFENSE (SEVERITY) AND OFFENDER (PAROLE PROGNOSIS) CHARACTERISTICS. THE TIME RANGES SPECIFIED BY THE GUIDELINES ARE ESTABLISHED SPECIFICALLY FOR CASES WITH GOOD INSTITUTIONAL ADJUSTMENT AND PROGRAM PROGRESS.

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.21 REPAROLE CONSIDERATION GUIDELINES.

(A) IF REVOCATION IS BASED UPON ADMINISTRATIVE VIOLATION(S) ONLY (I.E., VIOLATIONS OTHER THAN NEW CRIMINAL CONDUCT) THE FOLLOWING GUIDELINES SHALL APPLY.

POSITIVE SUPERVISION HISTORY (EXAMPLES)	CUSTOM TIME TO BE SERVED BEFORE RELEASE (MONTHS)
A. NO SERIOUS ALCOHOL/DRUG ABUSE AND NO POSSESSION OF WEAPONS (AND)	

B. AT LEAST 8 MONTHS FROM DATE OF RELEASE TO DATE OF VIOLATION BEHAVIOR (AND	
C. POSITIVE EMPLOYMENT/SCHOOL RECORD DURING SUPERVISION (AND	
D. PRESENT VIOLATION REPRESENTS FIRST INSTANCE OF FAILURE TO COMPLY WITH PAROLE REGULATIONS OF THIS TERM.....	0-8
NEGATIVE SUPERVISION HISTORY (EXAMPLES)	
A. SERIOUS ALCOHOL/DRUG ABUSE (E.G. READICTION TO HARD DRUGS) OR POSSESSION OF WEAPON(S) (OR)	
B. LESS THAN 8 MONTHS FROM DATE OF RELEASE TO DATE OF VIOLATION BEHAVIOR (OR)	
C. NEGATIVE EMPLOYMENT/SCHOOL RECORD DURING SUPERVISION (OR)	
D. .NEGATIVE ATTITUDE TOWARD SUPERVISION DEMONSTRATED BY LACK OF POSITIVE EFFORTS TO COOPERATE WITH PAROLE (AFTERCARE) PLAN OR BY REPETITIOUS OR PERSISTENT VIO-LATIONS.....	8-16

(B)(1) IF A FINDING IS MADE THAT THE PRISONER HAS ENGAGED IN BEHAVIOR CONSTITUTING NEW CRIMINAL CONDUCT, THE APPROPRIATE SEVERITY RATING FOR THE NEW CRIMINAL BEHAVIOR SHALL

BE CALCULATED. NEW CRIMINAL CONDUCT MAY BE DETERMINED BY A NEW FEDERAL, STATE, OR LOCAL CONVICTION OR BY AN INDEPENDENT FINDING BY THE COMMISSION AT REVOCATION HEARING. AS VIOLATIONS MAY BE FOR STATE OR LOCAL OFFENSES, THE

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APPROPRIATE SEVERITY LEVEL MAY BE DETERMINED BY ANALOGY WITH LISTED FEDERAL OFFENSE BEHAVIORS.

.23 DELEGATION TO HEARING EXAMINERS.

(A) THERE IS HEREBY DELEGATED TO HEARING EXAMINERS THE AUTHORITY NECESSARY TO CONDUCT HEARINGS AND MAKE RECOMMENDATIONS RELATIVE TO THE GRANT OR DENIAL OR PAROLE OR RE-PAROLE, REVOCATION OR REINSTATEMENT OF PAROLE OR MANDATORY RELEASE, AND CONDITIONS OF PAROLE.

.24 REVIEW OF PANEL RECOMMENDATION BY THE REGIONAL COMMISSIONER.

(A) A REGIONAL COMMISSIONER MAY REVIEW THE RECOMMENDATION OF ANY EXAMINER PANEL AND REFER THIS RECOMMENDATION, PRIOR TO WRITTEN NOTIFICATION TO THE PRISONER, WITH HIS RECOMMENDATION AND VOTE TO THE NATIONAL COMMISSIONERS FOR CONSIDERATION AND ANY ACTION DEEMED APPROPRIATE. WRITTEN NOTICE OF THIS REFERRAL ACTION SHALL BE MAILED OR TRANSMITTED TO THE PRISONER WITHIN 21 DAYS OF THE DATE OF THE HEARING. THE REGIONAL COMMISSIONER AND EACH NATIONAL COMMISSIONER SHALL HAVE ONE VOTE AND DECISIONS SHALL BE BASED UPON THE CONCURRENCE OF TWO VOTES. ACTION SHALL BE TAKEN BY THE NATIONAL COMMISSIONERS WITHIN 30 DAYS OF THE DATE OF REFERRAL ACTION BY THE REGIONAL COMMISSIONER, EXCEPT IN EMERGENCIES.

(B) (ESTABLISHES COMMISSIONERS AUTHORITY TO MODIFY OR REVERSE RECOMMENDATION OF A HEARING EXAMINER PANEL TO BRING THEM NEARER APPROPRIATE GUIDELINE RANGE.)

.25 REGIONAL APPEAL.

.26 APPEAL TO NATIONAL APPEALS BOARD.

(A) WITHIN 30 DAYS OF ENTRY OF A REGIONAL COMMISSIONER'S DECISION UNDER SEC. 2.25, A PRISONER OR PAROLEE MAY APPEAL TO THE NATIONAL APPEALS BOARD... HOWEVER, ANY MATTER NOT RAISED ON A REGIONAL LEVEL APPEAL MAY NOT BE RAISED ON APPEAL TO THE NATIONAL APPEALS BOARD. THE NATIONAL APPEALS BOARD MAY AFFIRM, MODIFY, OR REVERSE THE DECISION, OR ORDER A REHEARING AT THE INSTITUTIONAL OR REGIONAL LEVEL.

(B) THE NATIONAL APPEALS BOARD SHALL ACT WITHIN 60 DAYS OF RECEIPT OF THE APPELLANT'S PAPERS, TO AFFIRM, MODIFY, OR REVERSE THE DECISION.

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(C) DECISIONS OF THE NATIONAL APPEALS BOARD SHALL BE FINAL.

.29 RELEASE ON PAROLE.

(A) A GRANT OF PAROLE SHALL NOT BE DEEMED TO BE EFFECTIVE UNTIL A CERTIFICATE OF PAROLE HAS BEEN DELIVERED TO THE PRISONER.

(B) PAROLE RELEASE DATES GENERALLY WILL NOT BE SET MORE THAN SIX MONTHS FROM THE DATE OF THE PAROLE HEARING. RESIDENCE IN A COMMUNITY TREATMENT CENTER AS PART OF A PAROLE RELEASE PLAN GENERALLY SHALL NOT EXCEED 120 DAYS. AN EFFECTIVE DATE OF PAROLE SHALL NOT BE SET FOR A SATURDAY, SUNDAY, OR A LEGAL HOLIDAY.

(C) WHEN AN EFFECTIVE DATE OF PAROLE HAS BEEN SET BY THE COMMISSION, RELEASE ON THAT DATE SHALL BE CONDITIONED UPON CONTINUED GOOD CONDUCT BY THE PRISONER AND THE COMPLETION OF A SATISFACTORY PLAN FOR PAROLE SUPERVISION. THE APPROPRIATE REGIONAL COMMISSIONER MAY, ON HIS OWN MOTION, RE-

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CONSIDER ANY CASE PRIOR TO RELEASE AND MAY REOPEN AND ADVANCE OR RETARD A PAROLE DATE. A PAROLE GRANT MAY BE RETARDED FOR UP TO 120 DAYS WITHOUT A HEARING FOR DEVELOPMENT AND APPROVAL OF RELEASE PLANS.

.30 FALSE OR WITHHELD INFORMATION.

ALL PAROLES ARE ORDERED ON THE ASSUMPTION THAT INFORMATION FROM THE PRISONER HAS NOT BEEN FRAUDULENTLY GIVEN TO OR WITHHELD FROM THE COMMISSION. (REGIONAL COMMISSIONER AUTHORIZED TO INITIATE ACTION TO REVOKE OR RESCIND PAROLE AS RESULT OF.)

.33 RELEASE PLANS.

(A) A GRANT OF PAROLE IS CONDITIONED UPON THE APPROVAL OF RELEASE PLANS BY THE REGIONAL COMMISSIONER. (FACTORS TO BE CONSIDERED INCLUDE AVAILABILITY OF CARE FOR PAROLEE WHO MAY BE ILL OR REQUIRE SPECIAL CARE; ALLOWS CHANGE OF RESIDENCE THAT MORE EFFECTIVELY SERVES PUBLIC INTEREST OR IMPROVE PROBABILITY OF APPLICANTS ADJUSTMENT)

(C) WHERE THE CIRCUMSTANCES WARRANT, THE COMMISSION ON ITS OWN MOTION, OR UPON RECOMMENDATION OF THE PROBATION

OFFICER, MAY REQUIRE THAT AN ADVISER WHO IS A RESPONSIBLE, REPUTABLE, AND LAW-ABIDING CITIZEN LIVING IN OR NEAR THE COMMUNITY IN WHICH THE RELEASEE WILL RESIDE BE AVAILABLE

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TO THE RELEASEE.

REMAINDER OF PART 2 ESTABLISHES PROCEDURES AND CRITERIA
IN ADDITIONAL AREAS:

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.;; RELEASE PLANS

.39 JURISDICTION OF THE COMMISSION

.40 CONDITIONS OF RELEASE

.'3 EARLY TERMINATION OF PAROLE

.50 REVOCATION HEARING PROCEDURE

.51 ISSUANCE OF SUBPOENA FOR THE APPEARANCE OF WITNESSES
OR PRODUCTION OF DOCUMENTS.

.58 ABSENCE OF HEARING EXAMINER.

COPY 28 CFR POUCHED 8/29.

ABBELL'S OFFICE CABLING TEXT TIEGEN V. BELL DECISION PER
REQUEST OF REFTEL. DEPARTMENT CONCURS IN DELEGATION
INTE;TION TO INDICATE THAT USG CANNOT ACCEPT TURKISH
SUGGESTION TO SEEK NEW LEGISLATION AND THERE WOULD BE
NO HOPE FOR CONGRESSIONAL APPROVAL SHOULD ADMINISTRATION
SEEK THIS LEGISLATIVE CHANGE. CHRISTOPHER

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Secure: OPEN
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